

Message Text

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ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOT-00 INR-07 NSAE-00 CIEP-01 FAA-00 L-03 /027 W

-----061531Z 092781 /47

R 061041Z JAN 77

FM AMEMBASSY BUENOS AIRES

TO SECSTATE WASHDC 8434

LIMITED OFFICIAL USE SECTION 1 OF 2 BUENOS AIRES 0113

E.O. 11652: N/A

TAGS: EAIR, US, AR

SUBJECT: CIVAIR: BRANIFF QUOTAS

REF: (A) BUENOS AIRES 8142, (B) STATE 308749,

(C) BUENOS AIRES 0112

1. ECOM COUNSELOR DISCUSSED BRANIFF QUOTA PROBLEM WITH COMMERCIAL AIR TRANSPORT DIRECTOR LARGHI AT CONSIDERABLE LENGTH BUT WAS UNSUCCESSFUL IN PERSUADING HIM TO SUSPEND 1977 QUOTAS. LARGHI INSISTED THAT NOTHING HAD OCCURRED IN THE JANUARY 1976 TALKS THAT COULD BE INTERPRETED AS CONSTITUTING AN AGREEMENT ON THE PART OF ARGENTINE AUTHORITIES TO SUSPEND THE APPLICATION OF THE QUOTA SYSTEM PENDING RESUMPTION OF NEGOTIATIONS. IN LARGHI'S VIEW BRANIFF'S OBLIGATION TO OBSERVE EXISTING ARGENTINE REGULATIONS IMPOSING QUOTAS EXISTED PRIOR TO THE JANUARY TALKS AND CONTINUED TO EXIST AT THEIR CONCLUSION. FOLLOWING OUR DISCUSSIONS, LARGHI SET DOWN HIS POSITION IN A MEMORANDUM DELIVERED TO ECOM COUNSELOR, THE TEXT OF WHICH FOLLOWS IN EMBASSY TRANSLATION.

BEGIN QUOTE. IN AMPLIFICATION OF INFORMATION GIVEN YOU DURING YOUR VISIT TO MY OFFICE ON DECEMBER 27,
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1976, I WISH TO CONFIRM THE FOLLOWING WITH RESPECT TO THE FIFTH FREEDOM QUOTA SYSTEM AND THE FAILURE OF BRANIFF INTERNATIONAL TO COMPLY WITH IT.

1) BRANIFF INTERNATIONAL HAS THE OBLIGATION, AS SET FORTH IN ARTICLE 20. OF RESOLUTION SST NO. 7/72, TO NOT EXCEED, IN THE NUMBER OF PASSENGERS TRANSPORTED

AS FIFTH FREEDOM TRAFFIC, A FIGURE EQUAL TO THE SUM OF THE NUMBER OF PASSENGERS CARRIED AS THIRD AND FOURTH FREEDOM TRAFFIC. THE RESOLUTION CITED HAS BEEN IN EFFECT SINCE JANUARY 24, 1972.

2. THEREFORE, AND WITH RESPECT TO QUOTAS ASSIGNED TO THIRD COUNTRY CARRIERS OF REGIONAL TRAFFIC BETWEEN BUENOS AIRES-SANTIAGO AND BUENOS AIRES-LA PAZ AND VICE VERSA, BRANIFF HAS BEEN SUBJECT TO THE FOLLOWING SITUATIONS AT DIFFERENT TIMES:

A) TO THE TERMS OF RESOLUTION NO. 85/71, WHICH REQUIRES THAT THE QUOTA BE FIXED AS A PROPORTION BETWEEN THE VALUE OF THIRD AND FOURTH FREEDOM TRAFFIC AND THE NUMBER OF FREQUENCIES, THE VARIABLE VALUE TO BE COMMUNICATED TO THE COMPANY IN ADVANCE EACH SEMESTER. THIS RESOLUTION HAS BEEN IN EFFECT SINCE SEPTEMBER 30, 1971 FOR ALL COMPANIES ACTING AS THIRD CARRIERS IN THE REGION.

B) TO THE NUMBER TO BE AGREED UPON IN THE "MEMORANDUM OF CONSULTATION," WHICH ESTABLISHED A QUOTA OF 9,000 PASSENGERS ANNUALLY (4,500 PER SEMESTER) BETWEEN BUENOS AIRES AND SANTIAGO AND 5,600 ANNUALLY (2,800 PER SEMESTER) BETWEEN BUENOS AIRES AND LA PAZ, COMING AND GOING.

AT THE TIME, THIS QUOTA SIGNIFIED SPECIAL TREATMENT FOR THE AMERICAN FLAG CARRIER; THE ANNUAL QUOTAS LIMITED OFFICIAL USE

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9,000 AND 5,600 WERE COMMUNICATED TO THE COMPANY BY DNTAC, NO. 679 OF APRIL 13, 1973 AND DNTAC NO. 2.876/65 OF SEPTEMBER 5, 1974.

AS A RESULT OF AN ERROR IN INTERPRETING BOTH OF THESE NOTES AND DRAFTING WHICH I ADMIT WAS NOT CLEAR, THE COMPANY UNDERSTOOD THAT DURING DECEMBER 1975 AND 1976 NO QUOTAS WERE ASSIGNED TO IT AND AS A RESULT THE FAILURE OF BRANIFF TO COMPLY WILL HAVE NO CONSEQUENCES.

ON THE OTHER HAND, THE COMPANY HAS VIOLATED THE PROVISIONS OF ARTICLE 20 OF RESOLUTION NO. 7/72 BY TRANSPORTING AS FIFTH FREEDOM TRAFFIC A TOTAL NUMBER OF PASSENGERS GREATER THAN THE SUM OF THOSE TRANSPORTED AS THIRD AND FOURTH FREEDOM. THIS HAS GIVEN RISE TO THE FORMAL CHARGE TO WHICH THE COMPANY HAS GIVEN ITS ANSWER AND WHOSE RESULT WILL BE MADE KNOWN IN DUE COURSE.

AS YOU KNOW, THE MEMORANDUM OF CONSULTATION CEASED TO HAVE EFFECT IN 1973. THERE EXISTS BETWEEN ARGENTINA AND THE U.S. NO ACCORD OR AGREEMENT IN THE FIELD OF COMMERCIAL AVIATION REGULATING OUR RELATIONS AND CONSEQUENTLY WITH RESPECT TO REGIONAL FIFTH FREEDOM TRAFFIC QUOTAS, THE TERMS OF RESOLUTION NO. 85/71 OF SEPTEMBER 30, 1971 CONTINUE IN FULL FORCE UP TO THE PRESENT DATE. AS A CONSEQUENCE BRANIFF INTERNATIONAL HAS BEEN NOTIFIED BY DNTAC NOTE NO. 2.876/112 OF THE QUOTAS TO WHICH IT MUST SUBMIT DURING THE FIRST SEMESTER OF 1977. THIS COMMUNICATION DOES NOT CHANGE IN ANY WAY THE SITUATION EXISTING AT THE BEGINNING OF THE MONTH OF JANUARY 1976 WHEN THE CONSULTATION MEETINGS WERE HELD, SINCE BRANIFF INTERNATIONAL ALONG WITH ALL NON-REGIONAL CARRIERS HAS BEEN SUBJECT TO REGIONAL TRAFFIC QUOTAS SINCE 1971.

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ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00
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I SHOULD ALSO POINT OUT THAT WITH RESPECT TO THE U.S., THE ARGENTINE CARRIER HAS NO AUTHORIZED REGIONAL TRAFFIC EXCEPT BY WAY OF MEXICO, WHICH CANNOT BE CARRIED BECAUSE OF IMPEDIMENTS PLACED BY THE MEXICAN GOVERNMENT. FURTHER, U.S. CARRIERS ARE AUTHORIZED TRAFFIC AND STOPS, CARACAS-BUENOS AIRES, FOR EXAMPLE, FOR WHICH RECIPROCITY HAS BEEN DENIED TO AEROLINEAS

ARGENTINAS BY THE AUTHORITIES OF THE U.S.A.

THIS QUESTION OF QUOTAS CAN BE INCLUDED IN FUTURE NEGOTIATIONS AS IT WAS IN THE MEETING OF JANUARY 1976, IF IT COULD BE OF INTEREST TO THE AERONAUTICAL AUTHORITIES OF THE USA. SIGNED: COMODORO HORACIO HUMBERTO LARGHI, NATIONAL DIRECTOR OF COMMERCIAL AIR TRANSPORT. END QUOTE.

3. THE TEXT OF RESOLUTION NO. 85/71 IS BEING POUCHED ALONG WITH THE TEXT OF RESOLUTION NO. 7/72. AS EXPLAINED BY LARGHI, THE TWO RESOLUTIONS CONSTITUTE SEPARATE QUOTA REGIMES, THE MOST RESTRICTIVE FROM BRANIFF'S POINT OF VIEW BEING THE FORMER.

4. COMMENT: A) ALTHOUGH LARGHI HAD GIVEN US A GENERAL EXPLANATION OF THE BASE FIGURE TRAFFIC STATISTICS EMPLOYED, WE ARE REQUESTING THAT DETAILS BE LIMITED OFFICIAL USE

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PROVIDED US IN WRITING ALONG WITH INFORMATION ON QUOTAS ASSIGNED TO OTHER FOREIGN AIRLINES. WITHOUT SUCH INFORMATION WE ARE UNABLE TO JUDGE WHETHER THERE HAS BEEN DISCRIMINATION IN THE APPLICATION OF THE QUOTA SYSTEM.

B) REFTEL B, LARGHI INSISTS THAT THE QUOTAS ON BRANIFF ARE IN NO WAY A RETALIATION, BUT HE CONTINUES TO CONTEND THAT FAILURE TO GRANT AEROLINEAS A CARACAS STOP ON THE BUENOS AIRES-MIAMI ROUTE IS AN IMPLIED DENIAL OF FIFTH FREEDOM RIGHTS BY THE U.S.

C. IT SEEMS CLEAR THAT LARGHI HOPES TO USE THE QUOTA ISSUE AS A BARGAINING COUNTER WHEN TALKS RESUME. EMBASSY CONTINUES TO BELIEVE, HOWEVER, THAT WE STAND TO GAIN FROM A RESUMPTION OF NEGOTIATIONS AND WOULD WELCOME DEPARTMENT'S COMMENTS IN THIS CONNECTION. LOCAL BRANIFF OFFICE SEEMS TO FAVOR A HARD LINE WITH SOME SORT OF RETALIATION ON THE QUOTA PROBLEM BEFORE RESUMING ANY NEGOTIATIONS. HILL

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